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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,162	01/14/2004	Barry Wixey	275A-455/COC	3557
27572	7590	07/08/2004	EXAMINER	
HARNESSE, DICKEY & PIERCE, P.L.C.			SELF, SHELLEY M	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			3725	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,162

Applicant(s)

WIXEY ET AL.

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-30 is/are rejected.
- 7) ☒ Claim(s) 31-37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Claims 1-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. received May 24, 2004. Applicant's election with traverse of the invention of Group III (clms. 24-37) in Paper received May 24, 2004 is acknowledged. The traversal is on the ground(s) that the inventions of Groups are similar and thus no undue burden to search and examine exists. This is not found persuasive because the inventions are drawn to separate details of elements of the power planer (i.e. carriage mechanism, power-take off mechanism, locking mechanism).

As to Applicant's arguments that the invention of Groups I and II (clms. 1-23) are both drawn to a power planar having a carriage elevation mechanism and should therefore be grouped as one, this argument is found persuasive.

Based on Applicant's remarks the restriction requirement is modified as follows:

Group I, clms. 1-23

Group II, clms. 24-27

Due to Applicants election of the invention of claims 24-27 an action on the merits follows.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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Claims 24-37 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: cutting means/blade. The claims are drawn to the structure of a power planer, however the claims fail to positively recite any cutting means and its mechanical interrelationship to the rest of the claimed elements.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 24 as best as can be understood rejected under 35 U.S.C. 102(a) as being anticipated by Liao (6,089,286). Liao discloses a power planer comprising a base (60), a carriage assembly (50), a carriage elevation mechanism having a plurality of guide posts (62) and a plurality of nut assemblies (73), each guide posts being fixed to the base and having a threaded adjustment portion, each nut assembly being coupled to the carriage and threadably engaged to the threaded portion of the guide posts; and a locking mechanism (col. 3, lines 38-40) that is operable in an engaged condition in which the nut assemblies are frictionally engaged to the threaded adjustment portion of the guide posts to inhibit rotation of the nut assemblies relative to the guide posts, the locking member also being operable in a disengaged condition which does not inhibit rotation of the nut assemblies relative to the guide posts.

With regard to claim 25, Liao discloses a power take-off mechanism coupled to the carriage elevation mechanism and operable for selectively rotating the nut assemblies under a source of power to selectively position the carriage assembly relative to the base (fig. 8).

With regard to claim 28, Liao discloses a plurality of input gears (fig. 3) that rotate in response to a rotary input (56) transmitted to the elevation mechanism, each input gear having a plurality of gear teeth that meshingly engage a plurality of gear teeth formed on an associated one of the nut assemblies (fig. 4).

With regard to claims 29 and 30, Liao discloses worm gears (52, 55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 and 27 as best as can be understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (6,089,286) in view of Chang (6,315,014). Liao does not disclose a flexible member, Liao does however disclose a tube (57) for engaging a plurality of teeth that are formed on each of the nut assemblies and wherein rotation of tube drive member operably rotates the treaded structures in unison (col. 4, lines 35-52). Chang teaches the use of a flexible member/chain (col. 2, lines 1-15) in combination with threaded adjustable portions so as to move/adjust the carriage height (i.e. carriage elevation). Because the references are from a similar art, it would have been obvious at the time of the invention to replace Liao's member

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(57) with a flexible member so as synchronize the movement of the carriage assembly vertically via the plurality of threaded guide as taught by Chang.

Allowable Subject Matter

Claims 31-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if any 35 U.S.C. 112 rejection(s) were overcome.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
June 16, 2004



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